

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address

Facsimile: (714) 966-1002

☐ Individual appearing without attorney  
☒ Attorney for: Chapter 7 Trustee, Jeffrey I. Golden

## Debtor(s).

**Location:** United States Bankruptcy Court, Courtroom 5A, 411 West Fourth Street, Santa Ana, CA

Overbid procedure (if any): See attached Amended Notice of Motion

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If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:

United States Bankruptcy Court

411 West Fourth Street, Courtroom 5A

Santa Ana, CA

Date: August 3, 2017

Time: 10:30 a.m.

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Contact person for potential bidders (include name, address, telephone, fax and/or email address):

Reem J. Bello, Esq.

Lobel Weiland Golden Friedman LLP

650 Town Center Drive, Suite 950

Costa Mesa, CA 92626

Tel: (714) 966-1000 Fax: (714) 966-1002

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Date: 07/12/2017

## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:  
650 Town Center Drive, Suite 950  
Costa Mesa, CA 92626

A true and correct copy of the foregoing document entitled: **NOTICE OF SALE OF ESTATE PROPERTY** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On *(date)* 07/12/2017, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:  
Reem J. Bello (rbello@lwglfp.com, kadele@wglp.com; lfisk@wglp.com), Sean C. Ferry (sferry@ecf.courtdrive.com, bkyecf@rasflaw.com), Jeffrey Golden (ljones@wglp.com, jig@trusteesolutions.net, kadele@wglp.com, lfisk@wglp.com), Arlene M. Tokarz (wolfone5246@yahoo.com, amtokarzesq@gmail.com), United States Trustee (ustpreion16.sa.ecf@usdoj.gov)

☐ Service information continued on attached page

**2. SERVED BY UNITED STATES MAIL:**

On *(date)* \_\_\_\_\_, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** *(state method for each person or entity served)*: Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on *(date)* 07/12/2017, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Honorable Erithe A. Smith  
Ronald Reagan Federal Building & Courthouse  
Courtroom 5A

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

07/12/2017      Victoria Rosales  
*Date*                      *Printed Name*

/s/ Victoria Rosales  
*Signature*

Jeffrey I. Golden, State Bar No. 133040  
Reem J. Bello, State Bar No. 198840  
**LOBEL WEILAND GOLDEN FRIEDMAN LLP**  
650 Town Center Drive, Suite 950  
Costa Mesa, CA 92626  
Telephone: (714) 966-1000  
Facsimile: (714) 966-1002

Attorneys for Chapter 7 Trustee,  
Jeffrey I. Golden

**UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SANTA ANA DIVISION**

In re

WILLIAM BILDERBACK AND JONELLE  
BILDERBACK,

Debtors.

Case No. 8:16-bk-13227-ES

Chapter 7

**AMENDED NOTICE OF HEARING ON  
CHAPTER 7 TRUSTEE'S MOTION FOR  
ORDER:  
(1) AUTHORIZING SALE OF REAL  
PROPERTY FREE AND CLEAR OF  
LIENS, CLAIMS, AND INTERESTS  
PURSUANT TO 11 U.S.C. § 363(b) AND  
(F);  
(2) APPROVING OVERBID  
PROCEDURES;  
(3) APPROVING BUYERS, SUCCESSFUL  
BIDDER, AND BACK-UP BIDDER AS  
GOOD-FAITH PURCHASER PURSUANT  
TO 11 U.S.C. § 363(m);  
(4) AUTHORIZING PAYMENT OF  
UNDISPUTED LIENS, REAL ESTATE  
BROKER'S COMMISSION, DEBTORS'  
EXEMPTION AND OTHER ORDINARY  
COSTS OF SALE**

**DATE: August 3, 2017  
TIME: 10:30 A.M.  
Ctrm: 5A**

**TO ALL PARTIES IN INTEREST:**

**PLEASE TAKE NOTICE** that on **August 3, 2017**, at **10:30 a.m.** in Courtroom **5A** of the United States Courthouse located at 411 West Fourth Street, Santa Ana, California, a hearing will be held on the *Motion for Order: (1) Authorizing Sale of Real Property Free*

1 *and Clear of Liens, Claims, and Interests Pursuant to 11 U.S.C. §§ 363(b) and (f);*  
2 *(2) Approving Overbid Procedures; (3) Approving Buyers as Successful Bidder, and Back-*  
3 *up Bidder as Good-Faith Purchaser Pursuant to 11 U.S.C. § 363(m) and (4) Authorizing*  
4 *Payment of Undisputed Liens, Real Estate Broker's Commissions, Debtors' Exemption*  
5 *and Other Ordinary Costs of Sale (the "Motion")* filed by Jeffrey I. Golden, the chapter 7  
6 trustee (the "Trustee") for the bankruptcy estate (the "Estate") of William Bilderback and  
7 Jonelle Sellers (the "Debtors") The Motion is summarized as follows:

### 8 **Summary of Motion**

9 By the Motion, the Trustee seeks to sell real property located in Lake Forest,  
10 California, for a purchase price of \$590,000, subject to overbid and Court approval. As  
11 discussed below, the Trustee believes the purchase price represents the fair market value  
12 of the property and the proposed sale is reasonable and in the best interest of the Estate.

### 13 **Background**

14 The Debtors filed a voluntary petition under chapter 7 of the Bankruptcy Code on  
15 July 29, 2016, and Jeffrey I. Golden was appointed the chapter 7 trustee.

16 The Debtors' schedules list the real property located at 24395 Manzanita Drive,  
17 Lake Forest, California 92630 (the "Property"), and one secured claim against the  
18 Property totaling \$419,386.00. Debtors claim an exemption in the Property in the amount  
19 of \$100,000 pursuant to C.C.P. § 704.730 (the "Exemption"). Attached as Exhibit "1" to  
20 the Motion is a copy of Schedules A, C, D and amended Schedule C.

### 21 **Employment of Broker and Agents**

22 On March 9, 2017, the Trustee filed the application (the "Application") to employ  
23 Coldwell Banker as his broker (the "Broker") and William Friedman and Greg Bingham,  
24 agents of the Broker (the "Agents"). The employment terms provide for a total broker's  
25 commission aggregating six percent (6%) of the sales price of the Property, upon close of  
26 escrow. The order entered April 12, 2017, authorized the Trustee to employ the Broker  
27 and the Agents. A copy of the entered order is attached to the Motion as Exhibit "2."

### 28 **Value and Marketing of Property**

Mr. Bingham has extensive experience in marketing and selling real properties and,  
based on an investigation of surrounding property values and the interest generated by  
the listing, he believes the proposed purchase price for the Property represents current  
fair market value.

Mr. Bingham has listed the Property for sale in the Orange County Multiple Listing  
Service and the listing is also available on numerous real estate websites including  
Realtor.com, Trulia.com, and Zillow.com. Mr. Bingham has received and responded to  
numerous inquiries regarding the Property and has received several offers to purchase  
the Property, however each offer has been rescinded for various reasons. Mr. Bingham is  
continuing to market the Property for overbids. Prior to the sale hearing, Mr. Bingham will  
publish the details of the hearing and the overbid procedures in the Orange County MLS.

### **Liens, Claims and Interests**

According to the Preliminary Report prepared by First American Title Company with an effective date of May 17, 2017 (the "Title Report"), a copy of which is attached as Exhibit "3" to the Motion, the following items have been recorded against the Property:

Item	Exception	Original Amount/ Scheduled Amount	Description
1	Property taxes	Not yet due and payable	2017-2018 taxes.
2	Property taxes	Unknown	Supplemental Taxes, if any
3-10	Assessment liens, Covenants	Unknown	Community Facilities District Los Alamitos Unified School District.
11	Grant Deed	Unknown	Grantor, Jonelle Sellers, a married woman as her sole and separate property and Leon Sellers, an unmarried man as joint tenants to Grantee, Jonelle Sellers, a Married woman as her sole and separate property, recorded August 24, 2006, No. 2006000564685, Official Records.
12	Deed of Trust	\$430,000	Deed of trust to secure an indebtedness owed to Home123 Corporation recorded August 24, 2006 as No. 06-564686 (the "Home 123 Lien").
13	Grant Deed		Grantor, Jonelle Sellers to William Bilderback a ½ undivided interest in 24395 Manzanita Drive, Lake Forest, CA recorded November 29, 2010, as No. 2010000634520, Official Records..

The Trustee reserves the right to object to all or any portion of each and every claim or encumbrance that has been or will be asserted against the Property.

### **The Trustee Seeks Authority to Pay the Debtors'**

#### **Homestead Exemption Directly from Escrow**

As set forth hereinabove, the Debtors' claim a homestead exemption in the amount of \$100,000. No objection has been made to the Exemption and the Debtors' require the funds to move and relocate to another residence. Based thereon, the Trustee seeks approval to pay the Debtors' Exemption directly from escrow.

### **Terms of the Proposed Sale**

Ryan Christopher Pearson and Alison Paige Pearson, (together, the "Buyers") have offered to purchase the Property, and the Trustee has accepted that offer. The salient terms of the sale are as follows:

1. The purchase price (the "Purchase Price") is \$590,000;
2. The Buyers have made an initial deposit of \$17,700 (the "Deposit") payable to escrow, which is currently held by A & A Escrow Services, Inc. ("Escrow"). The Deposit is refundable to the Buyers only in the event the Bankruptcy Court accepts a third party overbid, or does not approve the Purchase Agreement for reasons not attributable to the

Buyers. The Trustee shall retain the Deposit as liquidated damages if the Bankruptcy Court approves the sale and the Buyers defaults under the Purchase Agreement;

3. The balance of the Purchase Price shall be tendered upon Close of Escrow (as defined in the Purchase Agreement);

4. The sale is as is, where is, with all faults, without warranty or recourse, but free and clear of any and all liens, claims, and interests, together with all improvements, as well as all easements and appurtenances pursuant to 11 U.S.C. §§ 363(b) and (f);

5. The sale is subject to approval of the Bankruptcy Court; and

6. The sale is subject to overbids.

The complete terms of the purchase and sale are set out in the California Residential Purchase Agreement and Joint Escrow Instructions, Buyers' Inspection Advisory, Cooperating Broker Compensation Agreement and Escrow Instruction, and Counter Offer (together, the "Purchase Agreement") attached to the Motion as Exhibit "4."

### **Summary of the Basis for Relief**

The Trustee believes that the proposed transaction has a legitimate business justification and is in the best interest of the Estate since the sale will generate proceeds for the benefit of the creditors of the Estate. The Purchase Price represents market value. Notice of the sale is being provided to all creditors, and the Trustee has proposed an overbid procedure to ensure the Estate receives the highest and best price for the Property at the hearing. The potential over bidders will be entitled to bid at the hearing on the Motion. Accordingly, the Trustee believes that the proposed sale is fair and reasonable and within the proper exercise of his business judgment.

**PLEASE TAKE FURTHER NOTICE that all overbids must be in writing and must be submitted to the Trustee's counsel whose address is listed in the top left hand corner of the first page of the instance Notice. Overbids are due on or before July 28, 2017 by 5:00 p.m.**

**PLEASE TAKE FURTHER NOTICE** that the overbid procedures sought to be approved by the Court are as follows:

1. Qualifying bidders ("Qualifying Bidder") shall:
  - a. Bid at least \$595,000 in cash for the Property;
  - b. Set forth in writing the terms and conditions of the offer that are at least as favorable to the Trustee as those set forth in the Purchase Agreement attached to the Motion as Exhibit "4";
  - c. Be financially qualified, in the Trustee's exercise of his sound business judgment, to close the sale as set forth in the Purchase Agreement;
  - d. Submit an offer that does not contain any contingencies to closing the sale, including, but not limited to, financing, inspection, or repair contingencies;
  - e. Submit a cash deposit for the Property in the amount of \$18,700 (the "Overbid Deposit") payable to Jeffrey I. Golden, Chapter 7 Trustee for the Bankruptcy Estate of William Bilderback and Jonelle Sellers, in the form of a cashier's check, which Overbid Deposit shall be non-refundable if the bid is deemed to be the Successful Bid, as defined in

paragraph 4 below. The Overbid Deposit, written offer, and evidence of financial qualification must be delivered to the Trustee (at 650 Town Center Drive, Suite 950, Costa Mesa, California 92626) **no later than July 28, 2017 before 5:00 p.m.**

2. At the hearing on the Motion, only the Buyers and any party who is deemed a Qualifying Bidder shall be entitled to bid.

3. Any incremental bid in the bidding process shall be at least \$1,000 higher than the prior bid.

4. At the hearing on the Motion and upon conclusion of the bidding process, the Trustee shall decide, subject to Court approval, which of the bids is the best bid, and such bid shall be deemed to be the "Successful Bid." The bidder who is accepted by the Trustee as the successful bidder (the "Successful Bidder") must pay all amounts reflected in the Successful Bid in cash at the closing of the sale. At the hearing on the Motion, and upon conclusion of the bidding process, the Trustee may also acknowledge a back-up bidder (the "Back-Up Bidder") which shall be the bidder with the next best bid. Should the Successful Bidder fail to close escrow on the sale of the Property, the Trustee may sell the Property to the Back-Up Bidder without further Court order.

5. Overbids shall be all cash and no credit shall be given to the purchaser or over bidder(s).

### **Summary of Relief Sought by the Motion**

By the Motion, the Trustee seeks entry of an order providing the following relief: requests that this Court enter an order:

1. Granting the Motion;

2. Approving the terms of the Purchase Agreement attached as Exhibit "4" and authorizing the Trustee to sell the Property to the Successful Bidder, or the Back-Up Bidder, "as is," "where is," "with all faults," and without warranty or recourse, but free and clear of any and all liens, claims, and interests, together with all improvements, as well as all easements and appurtenances, pursuant to 11 U.S.C. § 363(b) and (f);

3. Authorizing the Trustee to pay, through escrow, from the proceeds of the sale of the Property and without further order of the Court, the Home 123 Lien, the property tax liens, other real property taxes and assessments prorated as of the close of escrow, the above-described broker's commission, and any escrow fees, title insurance premiums and other ordinary and typical closing costs and expenses payable by the Trustee pursuant to the Purchase Agreement or in accordance with local custom;

4. Authorizing the Trustee to pay, through escrow, from the proceeds of the sale of the Property and without further order of the Court, the Debtors' Exemption in the amount of \$100,000.00;

5. Determining that the Buyers, the Successful Bidder, and the Back-Up Bidder are "good faith purchasers" pursuant to 11 U.S.C. § 363(m);

6. Authorizing the Trustee to return any Overbid Deposit to any unsuccessful bidder;

7. Attaching to the net sales proceeds any unpaid portion of the liens and judgments in the same value, priority and scope as such liens currently exist against the Property, subject to any and all of the Trustee's rights to object to, dispute, or subordinate such lien;



8. Reserving to the Trustee all rights to object to the validity, scope and priority of all disputed liens, claims and interests;
9. Approving the overbid procedures outlined in the Motion;
10. Authorizing the Trustee to take any and all necessary actions to consummate the sale of the Property;
11. To the extent there is any tax liability to the Estate from the sale, authorizing the Trustee to pay such taxes from the net funds the Estate receives from the sale;
12. Waiving any requirements for lodging periods of the order approving this Motion imposed by Local Bankruptcy Rule 9021-1 and any other applicable bankruptcy rules;
13. Waiving the stay of the order approving this Motion imposed by Federal Rule of Bankruptcy Procedure 6004(h) and any other applicable bankruptcy rules; and
14. For such other and further relief as the Court may deem just and proper.

A complete copy of the Motion is on filed at the Bankruptcy Court.

**Your Rights May Be Affected.** You should read these papers carefully and discuss them with your attorney, if you have one. (If you do not have an attorney, you may wish to consult one.)

**Deadline for Opposition Papers.** The Motion is being heard on regular notice pursuant to LBR 9013-1. If you wish to oppose the Motion, you must file a written response with the Court and serve a copy of it upon the Movant or Movant's attorney at the address set forth above no less than **14 days** prior to the above hearing date. If you fail to file a written response to the Motion within such time period, the Court may treat such failure as a waiver of your right to oppose the Motion and may grant the requested relief.

**Hearing Date Obtained Pursuant to Judge's Self-Calendaring Procedure.** The undersigned hereby verifies that the above hearing date and time were available for this type of Motion according to the judge's self-calendaring procedures.

**PLEASE TAKE FURTHER NOTICE** that any party requesting a copy of the Motion or any supporting documents filed with the Court with respect to the Motion may contact counsel for the Trustee, Reem J. Bello, by email at [rbello@lwgfllp.com](mailto:rbello@lwgfllp.com), by mail at 650 Town Center Drive, Suite 950, Costa Mesa, California 92626, or by telephone at (714) 966-1000.

Dated: July 11, 2017

LOBEL WEILAND GOLDEN FRIEDMAN LLP

By: /s/ Reem J. Bello  
Reem J. Bello  
Attorneys for Chapter 7 Trustee  
Jeffrey I. Golden

## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

**650 Town Center Drive, Suite 950  
Costa Mesa, California 92626**

A true and correct copy of the foregoing document entitled (*specify*): Amended Notice of Hearing on Chapter 7 Trustee's Motion for Order: (1) Authorizing Sale of Real Property Free and Clears of Liens, Claims, and Interests Pursuant to 11 U.S.C. § 363(B) and (F); (2) Approving Overbid Procedures; (3) Approving Buyers, Successful Bidder, and Back-Up Bidder as Good-Faith Purchaser Pursuant to 11 U.S.C. § 363(M); (4) Authorizing Payment of Undisputed Liens, Real Estate Broker's Commission, Debtors' Exemption and Other Ordinary Costs of Sale will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) July 12, 2017, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page

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**Served by Personal Delivery**

Honorable Erithe A. Smith  
United States Bankruptcy Court  
Central District of California  
Ronald Reagan Federal Building and Courthouse  
411 West Fourth Street, Suite 5040 / Courtroom 5A  
Santa Ana, CA 92701-4593

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

7/12/2017  
Date

Victoria Rosales  
Printed Name

/s/ Victoria Rosales  
Signature

**TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):**

Reem J Bello rbello@lwgfllp.com, kadele@wglp.com;lfisk@wglp.com

Sean C Ferry sferry@ecf.courtdrive.com, bkyecf@rasflaw.com

Jeffrey I Golden (TR) ljones@wglp.com, jig@trustesolutions.net;kadele@wglp.com;lfisk@wglp.com

Arlene M Tokarz Wolfone5246@yahoo.com, Amtokarzesq@gmail.com

United States Trustee (SA) ustpreion16.sa.ecf@usdoj.gov